

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX APPLICATION No 81 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VRAJLAL ZINABHAI PATEL

Versus

THE COMMISSIONER OF INCOME TAX

Appearance:

MR SN SOPARKAR for Petitioner
MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

Date of decision: 03/08/98

ORAL JUDGEMENT

By this application under Section 256(2) of the Income Tax Act, 1961, a prayer is made to this Court to direct the Tribunal to refer the following questions for the opinion of this court.

(1) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the investments in the land were not for the purpose of business ?

(2) Whether on the facts and in the circumstances of the case the Tribunal was justified in holding that the interest on withdrawal for the purpose of purchasing the land was not allowable m?

Mr. Soparkar submitted that at this stage, there is a limited inquiry as to whether on the facts and in the circumstances of the case, the questions of law would arise for opinion of this court and whether they are required to be answered.

In our opinion, however, when the Tribunal has recorded a finding that there was no evidence to show that the assessee was to develop the land and sell it at profit and hence interest on withdrawals invested in the land was disallowed, it cannot be said that any question of law arises from such decision for the opinion of this court.

In our opinion, no question of law arises for the opinion of this court from the order passed by the Tribunal. Hence, application stands rejected. Rule discharged. No costs.

Dt.3.8.1998. (C.K.THAKKER J.) (M.C.PATEL J.)